

APPEAL NO. 023292
FILED FEBRUARY 12, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 4, 2002. The hearing officer determined that the respondent (claimant) sustained a compensable occupational disease injury; that the date of the injury is _____; that the claimant gave timely notice of the injury to her employer; and that the appellant (carrier) waived the right to contest compensability of the injury by not doing so in a timely manner as provided for in Section 409.021. The carrier appeals this decision. The claimant urges affirmance.

DECISION

Affirmed.

We have reviewed the determinations complained of by the carrier on appeal and conclude that the issues involved factual questions for the hearing officer to resolve. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established from the evidence presented. Nothing in our review of the record indicates that the hearing officer's decision is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). With regard to the waiver issue, we find no merit in the carrier's argument that the holding in Continental Casualty Company v. Downs, 81 S.W.3d 803 (Tex. 2002) does not apply to the facts in the present case.

The hearing officer's decision and order is affirmed.

The true corporate name of the insurance carrier is **PACIFIC INDEMNITY COMPANY** and the name and address of its registered agent for service of process is

**PARKER W. RUSH
1445 ROSS AVENUE, SUITE 4200
DALLAS, TEXAS 75202-2812.**

Chris Cowan
Appeals Judge

CONCUR:

Daniel R. Barry
Appeals Judge

Elaine M. Chaney
Appeals Judge